DO NOT PUBLISH

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 82-2020
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

TEN (10) HORSES, ET AL.,

Defendants,

CONSTRUCTORA EL MONTE, S.A., ET AL.,

Claimants-Appellants.

Appeal from the United States District Court
for the Southern District of Texas

(SEPTEMBER 8, 1982)

Before RUBIN, JOHNSON and WILLIAMS, Circuit Judges.

RUBIN, Circuit Judge:

A final judgment of forfeiture was filed on January 5, 1982, but this does not dispose of the pending post-verdict motions. While these motions were still pending, on January 11, 1982, the claimants to the property involved filed a notice of appeal from the judgment of forfeiture.

A week later, on January 18, 1982, the several post-verdict motions were denied, and no subsequent notice of appeal has been filed.

Rule 4(a)(4), Fed. R. App. P., states:

> If a timely motion under the Federal Rules of Civil Procedure is filed in the district court by any party: . . . (iii) under Rule 59 to alter or amend the judgment; or (iv) under Rule 59 for a new trial, the time for appeal for all parties shall run from the entry of the order denying a new trial or granting or denying any other such motion. *A notice of appeal filed before the disposition of any of the above motions shall have no effect.*

(Emphasis supplied).

The notice of appeal in the present case is precisely what Rule 4(a)(4) declares to be null. Beam v. Youens, 664 F.2d 1275, 1276 (5th Cir. 1982); Williams v. Bolger, 633 F.2d 410, 412 (5th Cir. 1980). Because this error is jurisdictional, the Court may notice it sua sponte. *See* United States v. Kalish, ... F.2d ..... (5th Cir. July 23, 1982, nos. 80-1704, 80-1716, slip p. 3911, 3922); Save the Bay, Inc. v. United States Army, 639 F.2d 1100, 1102 (5th Cir. 1981).

For these reasons the appeal is DISMISSED.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 82-2020

UNITED STATES OF AMERICA,

Plaintiff-Appellee.

versus

TEN (10) HORSES, ET AL.,

Defendants,

CONSTRUCTORA EL MONTE, S.A., ET AL.,

Claimants-Appellants.

Appeal from the United States District Court
for the Southern District of Texas

ON PETITION FOR REHEARING
(October 12, 1982)

Before RUBIN, JOHNSON and WILLIAMS, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the petition for rehearing filed in the above entitled and numbered cause be and the same is hereby denied.

ENTERED FOR THE COURT

/s/ F. B. VELA
United States Circuit Judge

CLERK'S NOTE:

SEE RULE 41 FRAP AND LOCAL RULE 17 FOR STAY OF THE MANDATE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

C.A. No. B-81-125 Consolidated with:
B-81-126, B-81-127, B-81-128

UNITED STATES OF AMERICA,

Plaintiff,

VS.

TEN (10) HORSES, ETC.,

Defendants.

FINAL JUDGMENT OF FORFEITURE

(Filed January 5, 1982)

Based on the evidence presented at trial and in accordance with the jury verdict returned November 19, 1981, the Court hereby enters a Final Judgement of Forfeiture as to all of the property described below as follows:

A. One (1) Sorrel Quarter Horse Mare, AQHA #282899 (named Levan Bars);
B. One (1) Sorrel Quarter Horse Filly (Colt of Levan Bars);
C. One (1) Brown Quarter Horse Mare, AQHA #345994 (named Hopetowin);
D. One (1) Piper Navajo, PA-31 with Mexican Registration No. XB-ADE;
E. Lot Fifty-three, Parkland Estates Subdivision, City of McAllen, Hidalgo County, Texas, Referenced—Volume 16, Page 60, Map Records (BENITO and EVA MONTEMAYOR'S House

and lot), otherwise known as 2412 North First Street, McAllen, Texas;

F. Furniture and other chattels, taken from the house of Matias and Carmen Montemayor, of which the Drug Enforcement Administration had specific knowledge prior to the execution of the warrants in this case, as shown by the testimony at trial.

G. Furniture and other chattels, taken from the house of Benito and Eva Montemayor, of which the Drug Enforcement Administration had specific knowledge prior to the execution of the warrants in this case, as shown by the testimony at trial.

All other property referred to in the complaints and the attached appendices is DISMISSED from this cause of action and should be returned to the Claimants forthwith.

Furthermore, it is ORDERED that no sale of the forfeited property should take place pending appeal of this cause.

All court costs are hereby taxed against the Claimants.

Signed for entry on this the 5th day of January, 1982.

/s/ FILEMON B. VELA
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

C.A. No. B-81-125 Consolidated with:
B-81-126, B-81-127, B-81-128

UNITED STATES OF AMERICA,

Plaintiff,

VS.

TEN (10) HORSES, ETC.,

Defendants.

ORDER

(Filed January 18, 1982)

Upon consideration of the Claimants' Motion to Amend the Judgment, this Court finds that said motion is without merit and should be DENIED.

It is so ORDERED.

Signed for entry on this the 18th day of January, 1982.

/s/ FILEMON B. VELA
United States District Judge

(Attestation omitted in printing.)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

C.A. No. B-81-125 Consolidated with:
B-81-126, B-81-127, B-81-128

UNITED STATES OF AMERICA,

Plaintiff,

VS.

TEN (10) HORSES, ETC.,

Defendants.

ORDER

(Filed January 18, 1982)

Upon consideration of the Claimants' post-trial Motion to Vacate the Judgement, this Court finds that said motion has no merit and should be DENIED.

It is so ORDERED.

Signed for entry on this the 18th day of January, 1982.

/s/ FILEMON B. VELA
United States District Judge

(Attestation omitted in printing.)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

C.A. No. B-81-125 Consolidated with:
B-81-126, B-81-127, B-81-128

UNITED STATES OF AMERICA,

Plaintiff,

VS.

TEN (10) HORSES, ETC.,

Defendants.

ORDER

(Filed January 18, 1982)

Upon consideration of the Claimants' post-trial Motion For New Trial, this Court finds that said Motion has no merit and should be DENIED.

It is so ORDERED.

Signed for entry on this the 18th day of January, 1982.

/s/ FILEMON B. VELA
United States District Judge

(Attestation omitted in printing.)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

C.A. No. B-81-125 Consolidated with:
B-81-126, B-81-127, B-81-128

UNITED STATES OF AMERICA,

Plaintiff,

VS.

TEN (10) HORSES, ETC.,

Defendants.

ORDER

(Filed January 18, 1982)

Upon consideration of Claimants' Motion for Instructed Verdict, this Court finds that said motion is without merit and should be DENIED.

It is so ORDERED.

Signed for entry on this the 18th day of January, 1982.

/s/ FILEMON B. VELA
United States District Judge

(Attestation omitted in printing.)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

C.A. No. B-81-125 Consolidated with:
B-81-126, B-81-127, B-81-128

UNITED STATES OF AMERICA,

Plaintiff,

VS.

TEN (10) HORSES, ETC.,

Defendants.

ORDER

(Filed January 18, 1982)

Upon consideration of Claimants' Motion for Judgement Notwithstanding the Verdict, this Court finds that said motion is without merit and should be DENIED.

It is so ORDERED.

Signed for entry on this the 18th day of January, 1982.

/s/ FILEMON B. VELA
United States District Judge

(Attestation omitted in printing.)

TRIAL COURT DOCKET ENTRIES
(No. B-81-125)

PLAINTIFFS	DEFENDANTS
UNITED STATES v. OF AMERICA	TEN (10) HORSES, described as as follows:
	1) ONE (1) SORREL QUARTER HORSE MARE, AQHA #282899;
	2) ONE (1) SORREL QUARTER HORSE FILLY, (colt of #282899);
	3) ONE (1) BROWN QUARTER HORSE MARE, AQHA #345944;
CONSOLIDATED WITH B-81-126, B-81-127 and B-81-128	4) ONE (1) BAY QUARTER HORSE STALLION, AQHA #1274313;
	5) ONE (1) GREY QUARTER HORSE MARE, AQHA #1071786;
	6) ONE (1) SORREL QUARTER HORSE GELDING, AQHA #586325;
	7) ONE (1) GREY QUARTER HORSE GELDING, AQHA, #1383433;
	8) ONE (1) SORREL QUARTER HORSE STUD, (colt of #301934);
JURY REQUESTED	9) ONE (1) PALOMINO GELDING, star face with white mane and tail;
	10) ONE (1) SORREL QUARTER HORSE MARE, AQHA UNKNOWN, white hair at base of tail, right rear hock, left rear pastern, star, strip and snip.

CAUSE—28 USC 1345; 1355; 21 USC 846 Forfeiture of property purchased w/monies obtained through the sale of narcotics. 21 USC 881(a)(6), 21 USC 841.

ATTORNEYS

FOR PLAINTIFF:

Jose A. Berlanga, Assistant
UNITED STATES ATTORNEY
P. O. Box 61129
Houston, Texas 77208
713/226-4745

FOR DEFENDANTS:

f/Matias Montemayor,
Carmen Montemayor, &
Linda Montemayor

Michael J. Guinan
39 South LaSalle Street
Suite 1005
Chicago, Illinois 60603
312/236-2802

Matias Morin, Jr.
400 East University
Edinburg, Texas 78539
512/383-5641

f/Manuel Ayala

Reynaldo G. Garza, Jr.
GARZA & GARZA
680 East St. Charles #300
Brownsville, Texas 78520
512/541-4914

5/22/81 [1] Pltf's COMPLAINT FOR FORFEITURE, filed. JURY REQUESTED. lm

5/22/81 [2] Pltf's MOTION TO APPOINT SUBSTITUTE CUSTODIAN, filed. lm

5/22/81 [3] Pltf's MEMORANDUM IN SUPPORT OF MOTION TO APPOINT SUBSTITUTE CUSTODIAN, filed. lm

6/3/81 [4] Received MAGISTRATE'S PROCEEDINGS, Affidavit, Search Warrant and Return and filed. lm

6/5/81 [5] ANSWER TO COMPLAINT FOR FORFEITURE, filed. lm

6/5/81 [6] REPLY TO GOVERNMENT'S MOTION TO APPOINT CUSTODIAN AND MOTION TO ENJOIN GOVERNMENT, filed.

6/9/81 [7] PETITION FOR REMISSION, filed of Manuel Ayala. lm

6/10/81 WARRANT OF SEIZURE AND MONITION issued and handed to U.S. Marshal. lm

6/11/81 [8] Pltf's MOTION FOR INTERLOCUTORY SALE, filed. M/D 6/29/81 lm

6/12/81 [9] (FBV) ORDER APPOINTING SUBSTITUTE CUSTODIAN, filed. Drug Enforcement Administration substituted as custodian. U. S. Marshal and all counsel ntfd. lm

6/12/81 [10] Original ANSWER of Allen Taylor, filed. lm

6/15/81 [11] (FBV) ORDER, filed. Hearing on all motions pending and other pre-trial matters set June 22, 1981 at 8:30 A.M. Counsel Nftd. oha

6/17/81 [12] Deft's APPLICATION FOR CHANGE OF VENUE, filed. oha M/D 7/20/81

Numbers in brackets following file dates refer to the district court's record item numbers.

6/18/81 [13] Pltf's MOTION TO STRIKE PETITION FOR MITIGATION FILED BY MANUEL AYALA, filed. M/D 6/29/81 lm DD 6/22/81

6/22/81 [14] Pltf's MOTION FOR LEAVE TO FILE INTERROGATORIES, filed. M/D 7/6/81 lm

6/22/81 [15] Pltf's RESPONSE TO MOTION TO ENJOIN GOVERNMENT, filed. lm

6/22/81 HEARING PASSED until Wednesday, June 24, 1981 at 1:30 p.m. lm

6/24/81 [16] MARSHAL'S RETURN ON WARRANT OF SEIZURE and MONITION executed June 17, 1981 by publishing Monition once in the McAllen Monitor on June 21, 1981, filed. lm DD 6/25/81

6/24/81 [17] HEARING ON FORFEITURE—MINUTES, filed. Appearances: Jose A. Berlanga f/govt and Michael J. Guinan and Matias Morin f/defts. Govt moves that these cases should be consolidated. Court will take this under advisement. This case is reset for hearing on forfeiture on July 23, 1981 at 9:00 a.m. Set for final pre-trial on July 27, 1981 at 1:30 p.m. and jury selection on July 29, 1981 at 9:30 a.m. (Ct. Rptr.: B. Holloway) lm DD 6/25/81

7/1/81 [18] MARSHAL'S RETURN on MONITION executed June 25, 1981 by publishing monition one time in the Brownsville Herald, filed. lm DD 7/2/81

7/1/81 Pltf's NOTICE OF DEPOSITION of the following:

7/1/81 [19] Matias Montemayor on July 13, 1981, filed.

7/1/81 [20] Benito Montemayor on July 14, 1981, filed.

7/1/81 [21] Matias Morin, Jr. on July 15, 1981, filed.

7/1/81 [22] Eva Montemayor on July 15, 1981, filed.

Numbers in brackets following file dates refer to the district court's record item numbers.

7/1/81 [23] Constructora el Monte, S.A. on July 16, 1981, filed. lm

7/16/81 [24] Pltf's MOTION TO COMPEL DISCOVERY OR IN THE ALTERNATIVE FOR PROTECTIVE ORDER, filed. lm

7/16/81 [25] STIPULATION (US to delay filing forfeiture complaints w/respect to 10 motor vehicles until July 30, 1981), filed. lm

7/22/81 [26] Pltf's MOTION FOR SANCTIONS UNDER RULE 37 and MEMORANDUM IN SUPPORT, filed. lm

7/22/81 [27] Pltf's MEMORANDUM IN SUPPORT OF GOVERNMENT'S REQUEST FOR A JURY TRIAL, filed. lm

7/23/81 [28] (FBV) SHOW CAUSE HEARING—MINUTES filed. Appearances: AUSA, Jose Berlanga and Angie Flores; Michael J. Guinan and Matias Morin f/claimants. Court rules that seizure is constitutional. Hearing as to the seizure. Two of Plft's witnesses testify. Both sides close. Seizure—there was probable cause in the seizure on some items. Court will write an order to the items of seizure and the items to be released. Motion date is set for Sept. 19, 1981. Final pre-trial set for Sept. 29, 1981 at 1:30 p.m. Jury selection set for Nov. 2, 1981 at 9:30 a.m. (Ct. Rptr.—B. Holloway) lm DD 7/30/81

8/3/81 Received proposed order on motion for consolidation. lm

8/3/81 [29] Plft's MOTION TO RECONSIDER, filed. M/D 8/17/81 lm DD 8/6/81

8/5/81 [30] Copy of REPORTER'S TRANSCRIPT OF PROCEEDINGS on July 23, filed. lm DD 8/6/81

Numbers in brackets following file dates refer to the district court's record item numbers.

8/25/81 [31] (FBV) ORDER, filed. Parties Nftd. oha DD 8/26/81 This case is consolidated with C.A. B-81-126, B-81-127 and C.A. B-81-128, and that the pleadings in said actions stand as the pleadings in said consolidated action, to be carried under C.A. B-81-125.

9/4/81 [32] Pltf's MOTION FOR DEFAULT DECREE AND FINAL JUDGMENT OF FORFEITURE, filed. oha M/D 9/21/81

9/9/81 [33] (FBV) ORDER, filed. Parties Ntfd. oha Any item purchased prior to Nov. 10, 1978 or any item that the government did not substantiate was purchased after that date, either by direct testimony at the hearing or by reference to documentation or transactions testified to in the hearing, must be released promptly by the government.

9/21/81 [34] Plfts' SECOND MOTION FOR SANCTIONS UNDER RULE 37, OR, IN THE ALTERNATIVE, TO COMPEL DISCOVERY, filed. DD 9/23/81 mer

9/18/81 [35] Plfts' MOTION TO CONSOLIDATE, filed. DD 9/23/81 mer

9/18/81 [36] Plfts' NOTICE OF DEPOSITION, filed. DD 9/23/81 mer

9/18/81 [37] Plfts' NOTICE OF DEPOSITION, filed. DD 9/23/81 mer

9/23/81 [38] CERTIFICATE OF NON-APPEARANCE, by Terry Gill at Deposition on July 2, 1981, filed.

9/25/81 [39] CERTIFICATE OF NON-APPEARANCE, by Terry Gill at Deposition on July 2, 1981, filed.

9/29/81 [40] (FBV) PRE-TRIAL HEARING MINUTES, filed. Appearances: Jose A. Berlanga f/pltf. and Michael J. Guinan and Matias Morin, Jr. f/defts.

Numbers in brackets following file dates refer to the district court's record item numbers.

Motion to Consolidate (81-195) Court to rule later. Motion for forfeiture is denied. Motion for Sanctions—taken care of. As to 5th Amendment on deposition—Court to rule later. Set for FPT-October 29, 1981 at 1:30 p.m. Jury Selection—Nov. 2, 1981 at 9:00 A.M. DD 10/1/81 mer

10/19/81 [41] NOTICE OF DEPOSITION of Constructora El Monte, S.A. on October 21, 1981 at 1:00 a.m., filed. DD 10/22/81 mer

10/19/81 [42] NOTICE OF DEPOSITION of John Kwak on October 23, 1981 at 9:00 A.M., filed. DD 10/22/81 mer

10/19/81 [43] NOTICE OF DEPOSITION of Calvin Cagan on October 23, 1981 at 11:00 a.m., filed. DD 10/22/81 mer

10/19/81 [44] NOTICE OF DEPOSITION of Dominic Rossi, Jr. on October 22, 1981 at 3:00 P.M., filed. DD 10/22/81 mer

10/19/81 [45] NOTICE OF DEPOSITION of Laura Ciente on October 23, 1981 at 2:00 p.m., filed. DD 10/22/81 mer

10/19/81 [46] NOTICE OF DEPOSITION of Innocente Padron on October 22, 1981 at 5:00 p.m., filed. DD 10/22/81 mer

10/23/81 Returned Answers to Interrogatories to Attorney Matias Morin, Attorney for Defts. as they do not comply with Local Rules.

10/23/81 [47] NOTICE OF DEPOSITION, of Rudy Tamez, filed. mer

10/23/81 [48] Pltf's MOTION FOR LEAVE TO TAKE DEPOSITION, filed. mer

10/26/81 [49] (FBV) ORDER, filed. All counsel ntfd. 10/27/81 mer Deposition of Rudy Tamez to be taken in Federal Correctional Institution at Bastrop, Texas on October 27, 1981 at 1:00 p.m.

Numbers in brackets following file dates refer to the district court's record item numbers.

10/26/81 [50] Defts' MOTION FOR ORDER REQUESTING GOVERNMENT TO PRODUCE WITNESSES FOR DEPOSITION, filed. DD 10/27/81 mer

10/26/81 [51] Defts' MOTION FOR JUDGMENT DENYING GOVERNMENT'S MOTION FOR LEAVE TO TAKE DEPOSITION OF RUDY TAMEZ, filed.

10/28/81 [52] PLAINTIFF'S MOTION TO STRIKE ANSWERS OF CLAIMANTS MONTEMAYOR AND CONSTRUCTORA EL MONTE, S.A. AND FOR JUDGMENT OF FORFEITURE, filed.

10/28/81 [53] SUPPLEMENT TO MOTION FOR SANCTIONS AS TO CONSTRUCTORA EL MONTE, S.A., filed.

10/28/81 [54] PLAINTIFF'S MOTION TO STRIKE ANSWER OF MATEO SILVA AND FOR JUDGMENT OF FORFEITURE, filed. mer

10/29/81 [55] (FBV) FINAL PRE-TRIAL MINUTES, filed. Ct.Rptr. Bill Holloway Appearances: Jose A. Berlanga f/pltf. and Michael J. Guinan f/defts. This case is set for Jury Selection on November 2, 1981 at 9:00 A.M. mer

10/29/81 [56] DEPOSITION OF DOMINIC ROSSI, JR., filed.

10/29/81 [57] DEPOSITION OF MANUEL MONTEMAYOR, filed.

10/29/81 [58] DEPOSITION OF BENITO MONTEMAYOR, filed.

10/29/81 [59] DEPOSITION OF CALVIN CAGAN, filed.

10/29/81 [60] DEPOSITION OF INNOCENTE PADRON, filed.

10/29/81 [61] DEPOSITION OF JOHN KWAK, filed.

Numbers in brackets following file dates refer to the district court's record item numbers.

11/2/81 [62] DEPOSITION OF RODOLFO TAMEZ, FILED.

11/2/81 [63] AMENDED APPENDIX I, filed. DD 11/3/81 mer

11/2/81 [64] (FBV) JURY SELECTION MINUTES, filed. Ct. Rptr. Bill Holloway Appearances: Jose Berlanga f/Plft. and Michael J. Guinan f/defts. All parties present Jury Selected, not sworn. This case is set for trial on Nov. 16th, 1981 at 9:00 A.M. This is a 5 day case. Set before Judge Vela.

11/2/81 [65] Charge to the Jury, filed.

11/2/81 [66] Plft. requested interrogatories to the Jury, filed.

11/2/81 [67] Pltf. proposed questions for Voir Dire of the Jury Panel by the Court, file. Interrogatories will be filed by deft. later today or within 3 days. DD 11/3/81 mer

11/2/81 [68] DEPOSITION OF MANUEL MONTEMAYOR DE LA PAZ, filed. DD 11/3/81 mer

11/6/81 [69] Defts' AMENDMENT TO RULE 41 MOTIONS, filed. mer

11/6/81 [70] Defts' AMENDMENT TO RULE 41 MOTIONS, filed. mer

11/6/81 [71] Defts' AMENDMENT TO RULE 41 MOTIONS, filed. mer

11/6/81 [72] Defts' MOTION TO VACATE ORDER OF CONSOLIDATION, filed. oha

11/6/81 [73] Defts' MOTION TO ACCOUNT FOR SEIZED PROPERTY, filed. oha

11/6/81 [74] Defts' MOTION TO RETURN PROPERTY IN ACCORDANCE WITH COURT ORDER, filed. oha

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Numbers in brackets following file dates refer to the district court's record item numbers.

11/13/81 [75] DEPOSITION OF MARIA DEL CARMEN CASTILLO MONTEMAYOR, filed. oha

11/13/81 [76] DEPOSITION OF ORFELINDA MONTEMAYOR, filed. oha

11/13/81 [77] DEPOSITION OF EVA FRANCES MONTEMAYOR, filed. oha

11/16/81 [78] (FBV) JURY TRIAL MINUTES, filed. Ct. Rptr. Bill Holloway Appearances: Jose A. Berlanga, AUSA and Guinan, Salinas and Morin f/defts. Deft. and Jurors are present for Jury trial. Jury sworn. Jury out. Deft. Motions Amendment to Rule 41 Motions, filed.

11/16/81 [79] Pre-trial Order, filed.

11/16/81 [80] Plaintiff's requested Interrogatories to the Jury, filed.

11/16/81 [81] Motion in Limine, filed.

11/16/81 [82] Motion in Limine, filed.

11/16/81 [83] Motion in Limine, filed.

11/16/81 [84] Motion in Limine, filed.

11/16/81 [85] Motion to Sanction Government and Suppress Testimony of Surprise Witness, filed.

11/16/81 [86] Motion In Limine, filed.

11/16/81 [87] Motion in Limine & Motion to Quash & Suppress Evidence, filed.

11/16/81 [88] Motion in Limine & Motion to Quash & Suppress Evidence, filed.

11/16/81 [89] Motion to Sanction Govt & Suppress Testimony of Surprise Witness, filed.

11/16/81 [90] Motion in Limine, filed.

11/16/81 [91] Motion in Limine & Motion to Quash & Suppress Evidence, filed.

Numbers in brackets following file dates refer to the district court's record item numbers.

11/16/81 [92] Motion to Sanction Govt & Suppress testimony of Surprise Witness, filed.

11/16/81 [93] Motion to Sanction Govt. & Suppress Testimony of Surprise Witness, filed.

11/16/81 Govt Witnesses—II Deposition of Dominic Rossi, Jr. con't with 3rd witness. Court recess til Tuesday November 17, 1981 at 9:00 A.M.

11/17/81 [94] (FBV) JURY TRIAL MINUTES, filed. Ct. Rptr. Bill Holloway Appearances: Jose A. Berlanga and George Nachtigall, AUSA Michael Guinan, Homer Salinas and Matias Morin f/defts.

11/17/81 2ND DAY JURY TRIAL Con't with Gov't Witnesses—Motion to Dismiss Complaint & Enter Judgment for Claimants, filed. Govt Witnesses—8 Witnesses—Court finds probable cause.

11/17/81 [95] Testimony of Frank Tuccie, filed—Jury out.

11/17/81 [96] Testimony of Carlos Gutierrez, filed. Respondents Witnesses: 1 Court recess til Wednesday, November 17, 1981 at 9:00 A.M.

11/18/81 [97] (FBV) JURY TRIAL MINUTES, filed. Ct. Rptr. Bill Holloway Appearances: Jose A. Berlanga and George Nachtigall, AUSA and Michael Guinan, Homer Salinas and Matias Morin f/defts.

11/18/81 3RD DAY JURY TRIAL Deposition of John B. Powell, filed. Respondents' continue with Witnesses: 5 witnesses. Govt rebuttal Witnesses: 2 Witnesses. All side close at this time 3:30 p.m. Court recess til Thursday Nov. 19, 1981 at 9:00 A.M.

11/19/81 [98] Claimant's Requested Interrogatories to the Jury, filed.

11/19/81 [99] Claimant's Requested Interrogatories to the Jury, filed.

Numbers in brackets following file dates refer to the district court's record item numbers.

11/19/81 Arguments of counsel—Govt 9:05-9:45 a.m. Respondents 9:45-10:30 a.m. Charge of the Court—10:30-10:45 a.m. Jury given the case at 10:55 a.m.

11/19/81 [100] (FBV) Order for meal for Jury, filed.

11/19/81 [101] Jury back at 3:45 p.m. Verdict as to Interrogation 1 A-G is yes, filed. Verdict for the Govt.

11/19/81 [102] Exhibit List, filed.

11/19/81 [103] Exhibit List, filed.

11/19/81 [104] Charge to the Jury, filed.

11/19/81 [105] Pretrial Memorandum, filed.

11/25/81 [106] Deft's MOTION FOR NEW TRIAL, filed.

11/25/81 [107] Deft's MOTION TO VACATE THE JUDGMENT, filed.

11/25/81 [108] Deft's MOTION TO AMEND THE JUDGMENT, filed.

11/25/81 [109] Deft's JUDGMENT NOTWITHSTANDING THE VERDICT, filed.

11/25/81 [110] Deft's MOTION FOR INSTRUCTED VERDICT, filed.

11/30/81 Received Final Judgment of Forfeiture and Order of Sale and forwarded to Courtroom Deputy. mer

12/11/81 [111] Deft's MOTION TO DELAY SALE OF PROPERTY FORFEITED TO THE GOVERNMENT, filed. mer

12/11/81 [112] Deft's MOTION TO DELAY SALE OF PROPERTY FORFEITED TO THE GOVERNMENT, filed. mer

12/11/81 Received Proposed Judgment for Forfeiture and forwarded to Courtroom Deputy.

Numbers in brackets following file dates refer to the district court's record item numbers.

12/16/81 [113] Plft's RESPONSE TO CLAIMANTS' POST-TRIAL MOTIONS, filed. DD 12/17/81 mer

1/95/82 [114] (FBV) FINAL JUDGMENT OF FORFEITURE, filed. All counsel ntfd. DD 01/06/82 mer

1/06/82 [115] (FBV) ORDER, filed. All counsel ntfd. District Clerk shall allow the Government to substitute copies of documents introduced into evidence in this case, so that the originals may be used in a related criminal prosecution. mer

1/6/82 [116] RECEIPT FOR WITHDRAWAL OF EXHIBIT, filed. DD 01/07/82 mer

1/6/82 Special Agent, D.E.A. withdrew Gov't Exhibit #4A, a tape recording

1/11/82 [117] Deft's NOTICE OF FILING, filed. og DD 1/11/82

1/11/82 [118] Deft's NOTICE OF APPEAL, filed. og DD 1/11/82

1/11/82 [119] Description OF PARTS OF TRANSCRIPTION APPELLANTS INTEND TO INCLUDE IN THE RECORD AND STATEMENT OF THE ISSUES THEY INTEND TO PRESENT ON APPEAL, filed. og DD 1/11/82

(Attestation Omitted In Printing.)

Numbers in brackets following file dates refer to the district court's record item numbers.